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Counsel for Defendant

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

HERBERT FRANCL, Derivatively on
Behalf of RAMBUS INC.,

Plaintiff,

v.

PRICEWATERHOUSECOOPERS,

Defendant,

File No. C-08-1315-JF

**JOINT CASE MANAGEMENT
STATEMENT AND [PROPOSED]
ORDER**

JURY TRIAL DEMANDED

1 The parties to the above-titled action jointly submit this Case Management Conference
2 Statement.

3 **1. Jurisdiction and Service**

4 Plaintiff alleges that the Court has jurisdiction over the subject matter of this action
5 pursuant to 28 U.S.C. § 1332(a)(2) in that Plaintiff and Defendant are citizens of different states
6 and the matter in controversy exceeds \$75,000, exclusive of interest and costs. Defendant
7 PricewaterhouseCoopers LLP (“PwC” or “Defendant”) was served with the complaint filed in
8 this action on August 29, 2007.
9

10 **2. Facts**

11 This is a shareholder derivative action brought on behalf of nominal defendant Rambus,
12 Inc. (“Rambus” or the “Company”) against PwC for alleged breach of contract and professional
13 negligence and malpractice, in connection with Rambus’s alleged improper grant of and
14 accounting for stock options. Plaintiff alleges that PwC allowed Rambus insiders to divert
15 millions of dollars of corporate assets to themselves via the manipulation of the grant dates
16 associated with options awarded to insiders to purchase hundreds of thousands of shares of
17 Rambus stock – a scheme referred to as “back-dating.” PwC contends that it complied with all
18 of its contractual and professional obligations in performing its audits of Rambus’s financial
19 statements and, as publicly reported by Rambus, was provided by Rambus with falsified
20 information regarding options grants.
21

22 On October 19, 2006, Rambus announced the completion of its internal investigation of
23 its historical option grants. Rambus announced that certain stock option grants had been
24 incorrectly dated or accounted for under applicable accounting rules; as a result, the Company
25
26
27
28

1 expected to restate its historical financial statements. The Company ultimately restated its
2 earnings by \$102.4 million.

3 On August 28, 2007, Plaintiff Herbert Franel filed in the Southern District of New York a
4 shareholder derivative action on behalf of Rambus, asserting claims against PwC. On November
5 21, 2007, the case was transferred to this District; a Case Management Conference was
6 subsequently scheduled for July 11, 2008.

7
8 Plaintiff alleges that PwC breached written contracts between PwC and the Company and
9 committed professional negligence and malpractice by allowing the improper misdating of
10 certain grants of Rambus stock options to Company insiders, substantially damaging the
11 Company. Plaintiff further alleges that Rambus will suffer additional loss in the form of
12 investigation and restatement costs, increased financing costs, adverse tax consequences,
13 possible civil and/or criminal penalties, and revenue losses. PwC denies any allegations of
14 wrongdoing or liability.
15

16 **3. Legal Issues**

17 The principal legal issues currently in dispute are: (1) whether PwC breached its
18 contractual obligations; (2) whether PwC failed to perform its duties in a professional manner,
19 using the degree of care normally used and expected in the accounting and auditing profession;
20 (3) whether Rambus is entitled to damages and/or equitable relief as a result of Defendant's
21 alleged misconduct; and (4) whether Plaintiff made a demand on Rambus's Board of Directors or
22 whether a pre-suit demand on Rambus's Board of Directors is excused in this action.
23

24 **4. Motions**

25 No motions are pending. Defendant anticipates filing a Motion to Dismiss the Amended
26 Complaint within 60 days of its filing.
27
28

1 **5. Amendment of Pleadings**

2 Plaintiff anticipates filing an Amended Complaint on or before August 28, 2008.

3 **6. Evidence Preservation**

4 Plaintiff has taken all necessary steps to preserve evidence relevant to the issues
5 reasonably evident in this action, and will not destroy any documents or other evidence relevant
6 to the issues reasonably evident in this action, to the extent such evidence is in his possession.
7

8 **7. Disclosures**

9 Neither party has made initial disclosures pursuant to Fed. R. Civ. P. 26; the parties
10 believe that such disclosures should proceed in due course.

11 **8. Discovery**

12 Plaintiff has not demanded discovery from Defendant, but believes that discovery should
13 proceed in due course. PwC believes discovery should be stayed pending resolution of the
14 motion to dismiss.
15

16 **9. Class Actions**

17 This action is not a class action.

18 **10. Related Cases**

19 *In re Rambus Inc. Derivative Litig.*, No. C-06-3513-JF, pending in the United States
20 District Court for the Northern District of California, in some respects overlaps factually with
21 this litigation, but Plaintiff contends that the present litigation alleges different legal theories
22 against different defendants.
23

24 **11. Relief**

25 The amount of damages cannot be calculated at this time, although Plaintiff believes that
26 the Company has suffered substantial damages.
27
28

12. Settlement and ADR

The parties are filing contemporaneously herewith a Notice of Need for ADR Phone Conference and will file their respective ADR Certifications as soon as practicable. The parties agree that ADR would not be helpful at this time and that any ADR procedure should be stayed pending resolution of Defendant's Motion to Dismiss.

13. Consent to Magistrate Judge for All Purposes

The parties do not consent to have a magistrate judge conduct all further proceedings including trial and entry of judgment.

14. Other References

The parties do not believe that this case is suitable for reference to binding arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.

15. Narrowing of Issues

The parties do not believe that any issues can be narrowed at this early stage of the litigation.

16. Expedited Schedule

The parties do not believe this is the type of case that can be handled on an expedited basis.

17. Scheduling

The parties believe that the following schedule is appropriate for filing of the Amended Complaint and briefing of Defendant's Motion to Dismiss:

<u>Event</u>	<u>Deadline</u>
Amended Complaint	August 28, 2008
Motion to Dismiss	October 27, 2008

Opposition to Motion to Dismiss	December 11, 2008
Reply in Support of Motion to Dismiss	January 2, 2009

18. Trial

Plaintiffs demand a trial by jury and expect that a trial of this case will require approximately 20 days.

19. Disclosure of Non-party Interested Entities or Persons

Neither party has filed the "Certification of Interested Entities or Person" required by Civil Local Rule 3-16.

20. Miscellaneous

The parties do not know at this time of any other matters that will facilitate the just, speedy and inexpensive disposition of this matter.

The parties reserve the right to seek Court modification of this Order.

Dated: July 10, 2008

Respectfully Submitted,

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1 Dated: July 10, 2008

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Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on July 10, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

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Mailing Information for a Case 5:08-cv-01315-JF

Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

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Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

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